

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

MIAMI VALLEY FAIR HOUSING  
CENTER, INC., et al,

Plaintiffs,

vs.

STEINER + ASSOCIATES, INC.,  
et al.,

Defendants.

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Case No. 3:08cv00150

District Judge Thomas M. Rose

Magistrate Judge Sharon L. Ovington

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**FOURTH REPORT AND RECOMMENDATIONS<sup>1</sup>**

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On May 13, 2010, a First Report and Recommendations (Doc. #339) issued in this case, followed later by Second and Third Reports and Recommendations (Doc. #s 340, 350). Each Report concluded that certain Third-Party Defendants' Motions to Dismiss or Motions for Judgment on the Pleadings were well taken for the same reasons. On June 28, 2010, United States District Judge Thomas M. Rose adopted each Report and Recommendations in its entirety and granted the pertinent Motions to Dismiss and Motions for Judgment on the Pleadings. (Doc. #371).

The remaining, non-dismissed Third-Party Defendants have filed similar Motions or have joined in the above Motions. The case is therefore presently pending upon the

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<sup>1</sup> Attached hereto is a NOTICE to the parties regarding Objections to this Report and Recommendations.

following:

1. Alpine Plumbing, Inc.'s Motion to Dismiss (Doc. #169) and Memorandum (Doc. #365);
2. Third-Party Defendant Miller's Carpet Company, Inc.'s Motion to Dismiss (Doc. #336);
3. Third-Party Defendant Lutjen, Inc.'s Motion for Judgment on the Pleadings (Doc. #342);
4. Fourth-Party Defendant M & L Electric, Inc.'s Motion to Dismiss (Doc. #344); and
5. Third-Party Defendant Gould Evans Associates, LLC's Motion for Judgment on the Pleadings (Doc. #345).

The case is also presently pending upon Third- and Fourth-Party Plaintiffs' Memoranda in Opposition, the parties' related filings – including but not limited to Third-Party Plaintiffs' Objections to the prior Reports and Recommendations – and the record as a whole.

Before considering the above, one preliminary matter must be addressed: Third-Party Plaintiff Bayshore Town Center's Motion for Leave to Submit Supplemental Evidence (Doc. #286) is **GRANTED**, for good cause shown and in the absence of prejudice to any Third-Party Defendant. Bayshore Town Center's supplemental evidence (attached to its Motion for Leave) is accepted as filed.

Turning to the central pending matters, upon review of the above Motions, the parties' related Memoranda, the prior Objections, and the entirety of the record, the parties raise – in large part – the same arguments and issues concerning the FHA and indemnification and/or contribution that the prior Entry and Order and the First, Second,

and Third Report and Recommendations resolved. As a result, the prior Entry and Order (Doc. #371) and the First, Second, and Third Reports and Recommendations (Doc. #339, 340, 350) are incorporated herein by reference in full. And, accordingly, the above-listed Motions to Dismiss and Motions for Judgment on the Pleadings are well taken for the reasons set forth in the prior Entry and Order and the prior Reports and Recommendations.

**IT IS THEREFORE RECOMMENDED THAT:**

The Motions to Dismiss and/or Motions for Judgment on the Pleadings by the following Third-Party Defendants be **GRANTED** for the reasons set forth in the Entry and Order (Doc. #371) and the prior Reports and Recommendations (Doc. #239, 240, 250):

- Alpine Plumbing, Inc.'s Motion to Dismiss (Doc. #169);
- Third-Party Defendant Miller's Carpet Company, Inc.'s Motion to Dismiss (Doc. #336);
- Third-Party Defendant Lutjen, Inc.'s Motion for Judgment on the Pleadings (Doc. #342);
- Fourth-Party Defendant M & L Electric, Inc.'s Motion to Dismiss (Doc. #344); and
- Third-Party Defendant Gould Evans Associates, LLC's Motion for Judgment on the Pleadings (Doc. #345).

June 29, 2010

s/ Sharon L. Ovington  
Sharon L. Ovington  
United States Magistrate Judge

### NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).